

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7096 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 NO

CHIMANLAL V VASAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7096 of 1993
MR DM THAKKAR for Petitioner No. 1
MS SONAL D VYAS AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2-3
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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 08/05/2002

ORAL JUDGEMENT

1. The curious revelation which has come on record is that the petitioner of the petition dated 9.2.1993,

below which the affidavit of the petitioner is executed on 15.7.1993, is a person who died on 17.7.1991, according to the information and report gathered by the respondent. The learned counsel for the petitioner submitted that the petitioner was not in touch with him since long time and, by now, none of his heirs also could be contacted since his widow has also died in the year 1993 according to the government's report.

2. Upon the above revelation of facts, in retrospect, it is clear that the petition has been filed in the name of a dead person and several interim orders, including the detailed order dated 8.12.2001, have also been obtained in the name of the petitioner who was not alive on the date of filing of the petition. It is difficult to comprehend as to why and who should indulge in this kind of abuse of the process of Court. The learned counsel for the petitioner regretted that he, now, appears to have acted upon some misinformation or mistaken identity of the person who approached him in the name of the petitioner. Since no order of payment of exemplary costs can be executed or can serve any purpose, the petition has to be disposed at the instance of the learned counsel for the petitioner, as having become infructuous.

3. Accordingly, the petition is disposed as having become infructuous and Rule is discharged with no order as to costs and with the hope that the counsel practising at this Court shall take appropriate care before moving this Court in the name of a petitioner.

Sd/-

(D.H.Waghela, J.)

08.5.2002

(KMG Thilake)